

**Remarks:**

Claims 1-29 were previously in this application.

Claims 1-29 have been cancelled.

New claims 30-48 have been added to this application.

This amendment is being file together with a Request for Continued Examination.

In the last office action, all of the independent claims were rejected under 35 USC 103 based upon US 6,411,601 (Shaffer) in view of US 6,711,129 (Bauer).

Applicant's claims are directed to a method and system for accepting calls at a network gateway that includes a CPU. A utilization threshold can be set for the CPU. When a call is received at the gateway, the actual CPU utilization is determined and if it is higher than the utilization threshold, the call is rejected.

It is important to note that the determination of whether to accept a call is made without considering what resources that are required by a particular incoming call. For example, applicant's claim 31 calls for in part:

**“when an incoming call is received by said network gateway, taking the following steps independent of the particular set of resources required by said incoming call,**

calculating the present CPU utilization value,

comparing said present CPU utilization value to said CPU utilization threshold,

signaling refusal of said incoming call when said CPU utilization value is above said CPU utilization threshold” (emphasis added)

It is noted that the determination of whether or not to accept a call is made, without taking into consideration the resources required by the incoming call. In the specific example given in the applicant's specifications (and covered by applicants claim 43),

the utilization threshold value is set to seventy percent. If the actual utilization is above this value, the resources to handle a call may be available; however, the call will still be refused. As recited in applicant's claims, the decision to accept or reject a call is made totally independent and without taking into consideration the resources required by a particular incoming call. This has the advantage that the CPU utilization threshold can be set low enough that the CPU always has ample resources to handle each call quickly and with high quality.

The Shaffer reference describes a system that receives calls. The system determines what resources are required by a particular call and these particular resources are reserved prior to processing the call.

The Shaffer reference states:

"The system requests reservation of quantities of at least two network resources specified in the call request, monitors the available levels of the specified resources, reserves the resources as they become available, and when the requested levels of the network resources have been reserved, the call setup subsystem establishes the call". (from col 2 line 22 et. seq. )

"If the resource requirements exceed the resource availability at the time when the call request is received, a resource reservation mechanism places the call request into network resource queues for those network resources which are in short supply". (from Abstract)

Thus, there are two very significant differences between what is shown in the Schaffer reference and what applicant claims.

First, in Schaffer, the particular resources required by a particular call are considered and reserved before a call is processed. In the method and system recited in applicant's claims, the particular resources required by a call are not considered in making a decision as to whether or not to accept a call. A decision is made merely by considering the actual CPU utilization and the CPU utilization threshold.

Second, in the Schaffer system, if the system can not reserve the resources required by a particular call within a certain amount of time, the reserved resources are released and the new reservation request is made. See Figure 2 of Schafer and note the decision block 80 and the loop through blocks 82 back to block 76. In applicant's system, if the CPU utilization rate is above the CPU threshold value, the call is refused. For example applicant's claim 31 states, "signaling refusal of said incoming call when said CPU utilization value is above said CPU utilization threshold". In contrast, in Schaffer, if the resources are not available, the system merely loops and again attempts to reserve the necessary resources.

The Bauer reference describes an admission control scheme that evaluates each incoming request and determines if the required resources are available. As stated at column 4 lines 47 et. seq. of Baurer:

"Admission controller 120 evaluates an incoming service request and determines the corresponding minimum acceptable resource level. Admission controller 120 then determines a measure of the currently available resources and compares the minimum acceptable resources level to the measure of the available resources".

Thus, the Baurer reference, like the Schafer reference, looks at the resources required by an incoming call. In contrast the applicant claims recite a method and system that makes a decision based upon factors that are completely independent of resources required by a particular incoming call. Applicant's method and system makes a decision based solely on the present CPU utilization and the pre-set CPU utilization threshold value without considering what resources the particular incoming call requires.

Thus, the references teach away from the particular method and system defined in the applicant's claims.

For the foregoing reasons, consideration and allowance of new claims 31-48 is respectfully requested.

The Examiner is encouraged to telephone the undersigned at (503) 222-3613 if it appears that an interview would be helpful in advancing the case.

Respectfully submitted,

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A handwritten signature in cursive script, appearing to read 'Elmer Galbi', written over a horizontal line.

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